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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

ARTUR TCHIBASSA,

Petitioner,

v.

Jimmy Johnson, Facility Administrator,
Prairieland Detention Center; Josh Johnson, Acting
Director of Dallas Field Office, U.S. Immigration
and Customs Enforcement and Removal
Operations; Marcos Charles, Acting Executive
Associate Director, ICE Enforcement and Removal
Operations; Kristi Noem, Secretary of the U.S.
Department of Homeland Security; and Pamela
Bondi, Attorney General of the United States,
in their official capacities,

Respondents.

Case No. 3:25-cv-02604-N-BN

**AMENDMENT TO PETITION
FOR WRIT OF HABEAS
CORPUS**

INTRODUCTION

1. Respondents have held Petitioner, Artur Tchibassa, in the Prairieland Detention Center since April 2023. For the year-and-a-half until the Board of Immigration Appeals (BIA) issued its administratively final order of removal on December 20, 2024, 8 U.S.C. § 1226(c) compelled Respondents to detain Mr. Tchibassa as an alien inadmissible on account of his 2003 convictions for hostage-taking and conspiracy to take hostages: these convictions indisputably rendered him inadmissible under 8 U.S.C. 1182(a)(2)(i)(I), subjecting him to mandatory detention under 8 U.S.C. § 1226(c).

2. After the BIA issued an administratively final decision simultaneously ordering Petitioner's removal and *deferring* it under the Convention Against Torture, 8 U.S.C. § 2131(a)(1)(A) authorized Respondents to detain Mr. Tchibassa for a 90-day statutory removal period. After that statutory removal period expired, regulations promulgated to conform to *Zadvydas v. Davis*, 533 U.S. 678 (2001) permitted Defendants to detain Mr. Tchibassa an additional three months. 8 C.F.R. § 241.4(k)(1)(ii). These regulations provide that, once those three months elapsed, an "initial HQPDU review will ordinarily be conducted at the expiration of the three-month period after the 90-day review or as soon thereafter as practicable." 8 C.F.R. § 241.4(k)(2). That "practicable" period having expired, Respondents can only justify Mr. Tchibassa's continued detention "if such detainee's prompt removal is practicable and proper, or for other good cause." 8 C.F.R. § 241.4(k)(3). As explained below, removing Mr. Tchibassa to any country is "practicable" only to the extent that it is also *illegal*. This Court should therefore grant the instant petition for a writ of habeas corpus and order Mr. Tchibassa's release.

3. Mr. Tchibassa has argued that that his detention violates the regulations and the Constitution because his removal is not "reasonably foreseeable." In this Amendment he develops the argument that any "reasonably foreseeable" removal would, perforce, violate his Constitutional right to due process of law.

JURISDICTION

4. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

5. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

6. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

7. Venue is proper because Petitioner is detained at the Prarieland Detention Center in Alvarado, Texas, which is within the jurisdiction of this District.

8. Venue is proper in this District, moreover, because Respondents are officers, employees, or agencies of the United States; Respondents Jimmy Johnson and Josh Johnson work in this District; a substantial part of the events or omissions giving rise to her claims occurred in this District; Mr. Tchibassa resides in this District; and no real property is involved in this action. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

9. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

10. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

11. Petitioner is subject to an administratively final order of removal which has been deferred under the Convention Against Torture. He is in the custody, and under the direct control of Respondents and their agents.

12. Respondent Jimmy Johnson is the Facility Administrator of the Praireland Detention Center, and he has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.

13. Respondent Josh Johnson is sued in his official capacity as the Acting Director of the Dallas Field Office of U.S. Immigration and Customs Enforcement. Respondent Josh Johnson is a legal custodian of Petitioner and has authority to release him.

14. Marcos Charles is sued in his official capacity as the Acting Executive Associate Director of ICE Enforcement and Removal Operations. He directs the Headquarters Post-Order Detention Unit (HQPDU), which is charged with determining whether there is a significant likelihood of removing Petitioner in the reasonably foreseeable future.

15. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Kristi Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent Kristi Noem is a legal custodian of Petitioner.

16. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity,

she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Kristi Noem is a legal custodian of Petitioner.

STATEMENT OF FACTS

17. Petitioner is a 70-year-old citizen of Angola who came into DHS custody after two decades' imprisonment for conspiring to commit hostage-taking in violation of 18 U.S.C. §§ 371 and 1203 and (2) hostage-taking in violation of 18 U.S.C. §§ 2 and 1203. *United States v. Tchibassa*, 371 U.S. App. D.C. 543, 545, 452 F.3d 918, 921 (2006).

18. The facts most pertinent to this Amendment are that (a) the Board of Immigration Appeals has issued an administratively final order upholding an immigration judge's grant of deferral of removal under 8 C.F.R. § 1208.17(a); and that (b) the only justification for DHS' continued detention of Mr. Tchibassa five months beyond the roughly six months permitted under *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) is that his detention is "reasonably foreseeable."

19. The only way removal could be "reasonably foreseeable" is if Respondents intend to remove Petitioner, without legally sufficient notice and opportunity to be heard, to some country *other* than Angola.

LEGAL FRAMEWORK

20. Pursuant to 28 U.S.C. § 2243, the Court either must grant the instant petition for writ of habeas corpus or issue an order to show cause to Respondents, unless Petitioner is not entitled to relief. If the Court issues an order to show cause, Respondents must file a response "within *three days* unless for good cause additional time, *not exceeding twenty days*, is allowed." 28 U.S.C. § 2243 (emphasis added).

21. In his original Petition, Mr. Tchibassa focused upon his right to release under *Zadvydas v. Davis*, 533 U.S. 678 (2001). He provided scant support for his assertion that “To the extent removal is ‘foreseeable,’ it is forbidden.” This Amendment explains that, until the Respondents provide Petitioner constitutionally adequate notice and the opportunity to apply again for relief from removal under the Convention Against Torture, his lawful removal cannot be effectuated in the reasonably foreseeable future.

22. “‘It is well established that the Fifth Amendment entitles aliens to due process of law’ in the context of removal proceedings.” *Trump v. J.G.G.*, 604 U.S. ___, 2025 U.S. LEXIS 1450, 2025 WL 1024097, at *2 (Apr. 7, 2025) (per curiam) (quoting *Reno v. Flores*, 507 U.S. 292, 306, 113 S. Ct. 1439, 123 L. Ed. 2d 1 (1993)). DHS manifestly disagrees. On March 30, 2025 the agency released its “Guidance Regarding Third Country Removals,” which gainsays any right to notice in the effectuation of *most* third-country removals: “Prior to the alien’s removal to a country that had not previously been designated as the country of removal, DHS must determine whether that country has provided diplomatic assurances that aliens removed from the United States will not be persecuted or tortured. If the United States has received such assurances, and if the Department of State believes those assurances to be credible, *the alien may be removed without the need for further procedures.*” (Emphasis added.) **Exhibit A.**

23. Only if “the United States has not received those assurances, or if the Department of State does not believe them to be credible” has the alien any right to notice. *Id.* Even then, DHS “may” – implying it *may not* – “file a motion to reopen with the Immigration Court or the Board of Immigration Appeals... for the sole purpose of determining eligibility for protection under INA § 241(b)(3) and CAT for the [new] country of removal.”

24. Though not binding on this Court, the Ninth Circuit Court of Appeals held in *Andriasian v. I.N.S.* that the “last minute designation” of a removal country during removal proceedings “violated a basic tenet of constitutional due process: that individuals whose rights are being determined are entitled to notice of the issues to be adjudicated, so that they will have the opportunity to prepare and present relevant arguments and evidence.” 180 F.3d 1033, 1041 (9th Cir. 1999). The Seventh Circuit similarly held it a due-process violation to order a husband and wife deported to Russia after they had claimed asylum from Latvia and received insufficient notice that they might be sent to Russia instead. *Kossov v. INS*, 132 F.3d 405 (7th Cir. 1998).

25. In *Mathews v. Eldridge*, the Supreme Court pronounced that “The essence of due process is the requirement that a person in jeopardy of serious loss (be given) notice of the case against him and opportunity to meet it. All that is necessary is that the procedures be tailored, in light of the decision to be made, to the capacities and circumstances of those who are to be heard to ensure that they are given a meaningful opportunity to present their case.” 424 U.S. 319, 348-49 (1976) (internal quotation marks and citations omitted). Presented with essentially the same facts as Mr. Tchibassa’s, the Federal District Court for the Eastern District of Texas recently held that “Noncitizens have a right to meaningful notice and opportunity to be heard before being deported to a third country.” *Mahdejian v. Bradford*, No. 9:25-CV-00191, 2025 U.S. Dist. LEXIS 154931, at *8 (E.D. Tex. July 3, 2025).

26. To an alien deprived of notice and the opportunity to seek protection under the Convention Against Torture, a third country’s facially “credible” assurance to refrain from torture matters little if the receiving nation turns around and sends the alien home to his torturers. In his Motion for Temporary Restraining Order, Mr. Tchibassa cited *Mahdejian v. Bradford*, where the district court expressed its skepticism about the adequacy of “blanket assurances”

from third countries that that aliens would not be “tortured upon removal there.” No. 9:25-CV-00191, 2025 U.S. Dist. LEXIS 154931, at *8-9 (E.D. Tex. July 3, 2025). That concern proved prescient. The deportations to Ghana effectively violated the Convention Against Torture *by proxy*, as the President of Ghana characterized his country’s agreement with the United States as contemplating the *repatriation* of everyone removed to Ghana from the United States.

27. Respondents assert the authority to remove Mr. Tchibassa to some as yet undesignated third country with *no notice whatever*, provided only that the receiving country “assures” the U.S. that it will not torture Petitioner. Moreover, that “assurance” need not abjure Mr. Tchibassa’s repatriation to Angola. The United States District Court for the Southern District of Texas recently observed that, “Given the significance of this interest and the mandatory nature of withholding of removal for noncitizens who qualify, [the alien’s] private interest weighs heavily in favor of a robust due process requirement.” *Sanchez v. Noem*, No. 5:25-CV-00104, 2025 U.S. Dist. LEXIS 205572, at *32 (S.D. Tex. Oct. 2, 2025). This is a hundred miles away from DHS’ stated position that a previously-undesignated third country’s “credible assurance” that an alien “will not be persecuted or tortured” permits that alien’s third-country removal “without the need for further procedures.”

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

28. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V.

29. Petitioner’s removal order became administratively final on December 20, 2024. The removal period began on that day and expired March 20, 2025.

30. Petitioner has been detained by Respondents for five months beyond the *Zadvydas* decision's "presumptively reasonable" period of 180 days.

31. Absent a violation of Petitioner's Fifth Amendment right to notice and the opportunity to apply for relief under the Convention Against Torture, Petitioner's prolonged detention is not likely to end in the reasonably foreseeable future. Where, as here, removal is not reasonably foreseeable, detention cannot be reasonably related to the purpose of effectuating removal and thus violates due process. *See Zadvydas*, 533 U.S. at 690, 699–700.

32. For these reasons, Petitioner's ongoing prolonged detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO
Violation of 8 U.S.C. § 1231(a)

33. The Immigration and Nationality Act at 8 U.S.C. § 1231(a) authorizes detention "beyond the removal period" only for the purpose of effectuating removal. 8 U.S.C. § 1231(a)(6); *see also Zadvydas*, 533 U.S. at 699 ("[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute."). Because Petitioner's removal is not reasonably foreseeable, his detention does not effectuate the purpose of the statute and is accordingly not authorized by § 1231(a).

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.

- (3) Declare that Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1231(a), and 8 C.F.R. § 241.4(k)(3);
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately and to not re-detain him absent constitutionally adequate notice and the opportunity to apply for relief under the Convention Against Torture;
- (5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (6) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Paul S. Zoltan
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Dated: November 30, 2025

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Artur Tchibassa, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 30th day of November 2025.

/s/ Paul S. Zoltan
Paul S. Zoltan